

### REMARKS

1. Claims 1-33 were pending. Of these claims, 1-13 stand rejected and claims 14-33 stand withdrawn.

Reconsideration of this application is respectfully requested.

2. Withdrawn claims 14-33 have been canceled by this communication. The applicants reserve the right to file claims 14-33 in a divisional application.

3. The drawings stand objected to because: they do not include reference numeral 403 mentioned in the specification; FIG. 3 includes reference numerals not mentioned in the specification; and FIGS. 1 and 2 are not designated prior art.

Replacement sheets correcting the defects in FIGS. 1, 2 and 3 are submitted herewith for the examiner's approval. FIGS. 1 and 2 have each been amended to include the legend "Prior Art." FIG. 1 has also been amended to eliminate the second occurrence of reference numeral 12 and its corresponding lead line (which identified the source region). FIG. 3 has been amended with the reference numerals used in the "DESCRIPTION OF THE PREFERRED EMBODIMENT" section of the specification for referencing the substrate, STI, floating gates, control gates, and source/drain regions. Reference numerals 300, 310, 320, 330 and 340 have been deleted from FIG. 3.

4. Paragraph [0017], on page 4 of the specification has been amended to change "source/drain regions 411 and 430" to -- source and drain regions 411 and 430 --. Also, "floating gates 408" has been changed to -- floating gates 404 -- because reference numeral "408" identifies the planarized layers. Support for this amendment can be found, for example, in paragraphs [0018] and [0021] of the "DESCRIPTION OF THE PREFERRED EMBODIMENT" section of the specification.

5. Claims 1-3 and 5-13 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,800,525 to Ryu et al. (Ryu). Claims 1-8 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,706,592 to Chern et al. (Chern).

Independent claim 1 now requires:

“...providing a substrate having a pair of floating gate layer portions, a first conductive material layer between said pair of floating gate layer portions, and a first dielectric layer above said first conductive material layer;

forming a pair of floating gates from said pair of floating gate layer portions using the first dielectric layer as a first etching hard mask;

forming a control gate having a second dielectric layer above said control gate, wherein said control gate is self-aligned to said pair of floating gates by using said first and second dielectric layers as a second etching hard mask...”

Support for this amendment can be found in paragraphs [0027] and [0028] of the “DESCRIPTION OF THE PREFERRED EMBODIMENT” section of the specification.

Ryu does not expressly or inherently describe the subject matter of currently amended claim 1, as the fifth oxide film 217 (first dielectric layer) is not used as an etching hard mask to form the floating gates 211, as now required in claim 1. Therefore, claim 1 is allowable over Ryu.

With respect to claims 2, 3 and 5-13 which depend upon claim 1 and recite additional features of the invention, applicants believe these claims to be allowable over Ryu for at least the same reasons as stated for claim 1.

Chern does not expressly or inherently describe the subject matter of currently amended claim 1, as the oxide layer 60 (first dielectric layer) is not used as an etching hard mask to form poly layer 14 (floating gates), as now required in claim 1. Therefore, claim 1 is also allowable over Chern.

With respect to claims 2-8 which depend upon claim 1 and recite additional features of the invention, applicants believe these claims to be allowable over Chern for at least the same reasons as stated for claim 1.

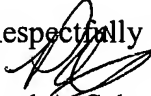
In view of the foregoing, withdrawal of these rejections is respectfully urged.

6. Claim 6 has been amended to be consistent with the amendments made to claim 1. Claim 9 has been amended to correct a minor punctuation error.

7. Favorable reconsideration of this application is respectfully requested as it is believed that all outstanding issues have been addressed herein and, further, that claims 1-13 are in condition for allowance. Should there be any questions or matters whose resolution may be advanced by a telephone call, the examiner is cordially invited to contact applicants' undersigned attorney at his number listed below.

8. The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17, which are associated with this communication, or credit any overpayment to Deposit Account No. 50-2061.

Respectfully submitted,

  
Paul A. Schwarz  
Reg. No. 37,577

Duane Morris LLP  
P.O. Box 5203  
Princeton, NJ 08543-5203  
609-631-2446- Tel  
609-631-2401 - Fax  
PTN\126648.1